

## Bureau of Indian Affairs, Interior

## § 11.100

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SOURCE: 58 FR 54411, Oct. 21, 1993, unless otherwise noted.

### Subpart A—Application; Jurisdiction

SOURCE: 73 FR 39859, July 11, 2008, unless otherwise noted.

#### § 11.100 Where are Courts of Indian Offenses established?

(a) Unless indicated otherwise in this title, these Courts of Indian Offenses are established and the regulations in this part apply to the Indian country (as defined in 18 U.S.C. 1151 and by Federal court precedent) occupied by the following tribes:

(1) Santa Fe Indian School Property, including the Santa Fe Indian Health Hospital, and the Albuquerque Indian School Property (land held in trust for the 19 Pueblos of New Mexico);

(2) Skull Valley Band of Goshutes Indians (Utah);

(3) Te-Moak Band of Western Shoshone Indians (Nevada);

(4) Tribes located in the former Oklahoma Territory (Oklahoma) that are listed in paragraph (b) of this section;

(5) Tribes located in the former Indian Territory (Oklahoma) that are listed in paragraph (c) of this section;

(6) Ute Mountain Ute Tribe (Colorado); and

(7) Winnemucca Indian Tribe.

(b) This part applies to the following tribes located in the former Oklahoma Territory (Oklahoma):

(1) Apache Tribe of Oklahoma;

(2) Caddo Nation of Oklahoma;

(3) Comanche Nation (except Comanche Children's Court);

(4) Delaware Nation;

(5) Fort Sill Apache Tribe of Oklahoma;

(6) Kiowa Indian Tribe of Oklahoma;

(7) Otoe-Missouria Tribe of Indians; and

(8) Wichita and Affiliated Tribe of Indians.

(c) This part applies to the following tribes located in the former Indian Territory (Oklahoma):

(1) Eastern Shawnee Tribe of Oklahoma;

(2) Modoc Tribe of Oklahoma;

(3) Ottawa Tribe of Oklahoma;

(4) Peoria Tribe of Indians of Oklahoma; and

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(5) Seneca-Cayuga Tribe of Oklahoma.

[78 FR 14020, Mar. 4, 2013]

### **§ 11.102 What is the purpose of this part?**

It is the purpose of the regulations in this part to provide adequate machinery for the administration of justice for Indian tribes in those areas of Indian country where tribes retain jurisdiction over Indians that is exclusive of State jurisdiction but where tribal courts have not been established to exercise that jurisdiction.

### **§ 11.104 When does this part apply?**

(a) The regulations in this part continue to apply to each tribe listed in § 11.100 until either:

(1) BIA and the tribe enter into a contract or compact for the tribe to provide judicial services; or

(2) The tribe has put into effect a law-and-order code that establishes a court system and that meets the requirements of paragraph (b) of this section.

(b) When a tribe adopts a legal code and establishes a judicial system, the tribe must notify the Assistant Secretary—Indian Affairs or his or her designee. The law-and-order code must be adopted by the tribe in accordance with its constitution and by-laws or other governing documents.

### **§ 11.106 Who is an Indian for purposes of this part?**

For the purposes of the enforcement of the regulations in this part, an Indian is defined as a person who is a member of an Indian tribe which is recognized by the Federal Government as eligible for services from the BIA, and any other individual who is an “Indian” for the purposes of 18 U.S.C. 1152–1153.

### **§ 11.108 How are tribal ordinances affected by this part?**

The governing body of each tribe occupying the Indian country over which a Court of Indian Offenses has jurisdiction may enact ordinances which, when approved by the Assistant Secretary—Indian Affairs or his or her designee:

(a) Are enforceable in the Court of Indian Offenses having jurisdiction over

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the Indian country occupied by that tribe; and

(b) Supersede any conflicting regulation in this part.

### **§ 11.110 How are tribal customs affected by this part?**

Each Court of Indian Offenses shall apply the customs of the tribe occupying the Indian country over which it has jurisdiction to the extent that they are consistent with the regulations of this part.

### **§ 11.112 [Reserved]**

### **§ 11.114 What is the criminal jurisdiction of the Court of Indian Offenses?**

(a) Except as otherwise provided in this title, each Court of Indian Offenses has jurisdiction over any action by an Indian (hereafter referred to as person) that is made a criminal offense under this part and that occurred within the Indian country subject to the court’s jurisdiction.

(b) No person may be prosecuted, tried or punished for any offense unless the complaint is filed within 5 years after the offense is committed.

### **§ 11.116 What is the civil jurisdiction of a Court of Indian Offenses?**

(a) Except as otherwise provided in this title, each Court of Indian Offenses has jurisdiction over any civil action arising within the territorial jurisdiction of the court in which:

(1) The defendant is an Indian; or

(2) Other claims, provided at least one party is an Indian.

(b) Any civil action commenced in a Court of Indian Offenses is barred unless the complaint is filed within 3 years after the right of action first accrues.

### **§ 11.118 What are the jurisdictional limitations of the Court of Indian Offenses?**

(a) A Court of Indian Offenses may exercise over a Federal or State official only the same jurisdiction that it could exercise if it were a tribal court. The jurisdiction of Courts of Indian Offenses does not extend to Federal or State employees acting within the scope of their employment.